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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/011,160 01/20/98 HALL

H

IM62/0907

EXAMINER

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SAN JOSE CA 95123

OCAMPO, M

ART UNIT

PAPER NUMBER

1723

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DATE MAILED: 09/07/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No. 09/011,160	Applicant(s) Hall, Harold
Examiner Marianne S. Ocampo	Group Art Unit 1723



Responsive to communication(s) filed on Aug 2, 1999

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 1-11 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1, 10, and 11 is/are rejected.

Claim(s) 2-9 is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on Jan 20, 1998 is/are objected to by the Examiner.

The proposed drawing correction, filed on _____ is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: the foreign prior art, "FR 114135", in the first line of the last paragraph, page 1 of the specification, should be changed to FR 1,114,135. The examiner has assumed a typographical error had been made, and can be revised as suggested above. However, if applicant really meant to include the reference, FR 114 135 (Philips), a copy of that reference must be submitted in response to this office action.
Appropriate correction is required.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the additional structural limitation of the device as claimed in claim 10 referring to "the two distribution plates being disposed either side of the metal plates" must be shown or this feature be canceled from the claim. No new matter should be entered.

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Claim Objections

3. Claims 3 - 9 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other previous claims in the alternative only, and cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 3 - 9 have not been further treated on the merits.

4. Claim 10 is objected to because of the following informalities: the word "on" should be inserted before the phrase, "either side of each of the metal plates" in lines 1 - 2 of this claim. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 10 - 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to distinctly claim the subject matter which applicant regards as the invention. The following gives reasons for this rejection:

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a. Claim 10 recites the limitation "two distribution plates are disposed either side of each of the metal plates" in lines 1 - 2 of the claim. This is unclear and since this feature has not been illustrated (shown in a figure) in any of the figures, the exact location of the distribution plates is vague and unclear. Are there four plates altogether, with two distribution plates on each side of the metal plates, or only two plates with one distribution plate on top of the first metal plate, and another plate under the second metal plate ? Correction is required.

b. Regarding claim 11, the phrase "a known filter" renders the claim indefinite because the claim includes elements not actually disclosed (those encompassed by "a known filter"), thereby rendering the scope of the claim unascertainable. See MPEP § 2173.05(d). There are many types of filters for many types of materials (solids, liquids and gases). Does this phrase, "a known filter" meant to include all types of filters, or only those of fluid filters?

Claim Rejections - 35 USC § 102

7. The following quotation of the appropriate paragraphs of 35 U.S.C. 102 form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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8. Claims 1 and 11 are rejected under 35 U.S.C. 102(e) or (a) as being anticipated by Morrick (U.S. 5,389,252).

Merrick (252) discloses a magnetic filter aid for a filtering device for removing (filtering) metallic (ferromagnetic) materials from a fluid (engine oil) prior to its passing into an oil filter (2). The magnetic filtering device comprising, a magnet (24), an annular particle collecting disk (plate, 26) made of galvanized or stainless steel, and an oil filter (2) with a distribution plate (4) having a plurality of inlet holes (apertures, 10) which are axially aligned with the recesses of the metal plate (26). Merrick discloses the metal disk/plate (26) abuttingly disposed with one face of the magnet (24), and having a plurality of angular notches (recesses, 28) about its outer periphery forming a plurality of radially extending pole pieces that extend beyond the outer perimeter of the faces of the magnet (24). Merrick also discloses the metal plate (26, magnet (24) and the distribution plate (4) having an aperture (14) adapted to receive a tube (20) through which the the fluid/oil passes therethrough and is isolated from the fluid coming into the filter through the recesses (28) of metal plate (26), as in figures 1 - 2. In addition, Merrick discloses having another metal disk/plate (26) on the other face (side) of the magnet (24) in order to increase the magnetic strength (force) of the magnetic device (col. 3, lines 48 - 60).

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Allowable Subject Matter

9. The following claims have allowable subject matter, however, these claims have been objected and rejected for the following reasons :

- a. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
- b. Claim 10 would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112 set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the primary reference, Morrick (252) has failed to anticipate or render obvious, alone or in proper combination with other references, a device for filtering ferromagnetic material from a fluid, comprising a magnet having faces of opposing magnetic polarity; a pair of metal plates disposed in abutment with the faces of the magnet, and having a plurality of recesses about the outer perimeter of each plate, wherein those recesses forming radially extending magnetic pole pieces extending beyond the outer perimeter of the magnet faces, and the plates oriented such that the recesses and pole pieces on one plate are axially aligned with the recesses and pole pieces of the other plate, and that each recess and outer edge of each pole piece being provided with one or a

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plurality of slots; and the device also provided with two distribution plates disposed on either side of each of the metal plates and each distribution plate having a plurality of apertures axially aligned with the recesses of the metal plates.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne S. Ocampo, whose telephone number is (703) 305-1039. The examiner can normally be reached on Monday - Friday from approximately 7:00AM - 3:30PM.
11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker, can be reached on (703) 308-0457.
12. The fax phone number for **Unofficial** faxes (i.e. faxes not to be entered, drafts) for Technology Center 1700 is **(703) 305-3602**. The fax number for **Official** faxes (i.e. faxes to become part of the file history) for this Center is **(703) 305-3599**. When filing a fax in Technology Center 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communication with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

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13. Any inquiry of a general nature or relating to the status for this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

M. S. O.

September 2, 1999

M. Savage

MATTHEW O. SAVAGE
PRIMARY EXAMINER
GROUP 1300